

DISPOSITION OF PROPERTY OF INDIANS DYING  
INTESTATE WITHOUT HEIRS

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MAY 19 (legislative day, MAY 15), 1942.—Ordered to be printed

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Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs,  
submitted the following

## REPORT

[To accompany H. R. 4533]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 4533) providing for the disposition of trust or restricted estates of Indians dying intestate without heirs, having considered the same, report thereon with the recommendation that it do pass with the following amendments:

On page 2, line 2, strike out the period and insert the following:  
and subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder.

On page 2, line 15, after the word "sold" insert a comma and the following:

subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder.

On page 2, line 22, after the word "States" insert a comma and the following:

subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder.

On page 3, line 10, change the period to a comma and insert the following:

subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder.

On page 3, after line 10, insert a new section, designated as "Sec. 3.", as follows:

Sec. 3. The provisions of this Act shall not apply to the Indians of the Five Civilized Tribes or the Osage Reservation, in Oklahoma.

On page 3, line 11, change the figure "3" to the figure "4".

The amendments herein suggested are recommended in order to clarify the provisions of this bill and to prevent controversy.

This bill has been considered by the Committee on Indian Affairs of the House; on May 9, 1941, that committee submitted its report (H. Rept. No. 523) to the House, recommending its passage and on June 16, 1941, it passed the House.

The purpose of this proposed legislation is fully set forth in said House Report No. 523, a copy of which is attached hereto and made a part of this report, as follows:

[H. Rept. No. 523, 77th Cong., 2d sess.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 4533) to provide for the disposition of trust or restricted estates of Indians dying intestate without heirs, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This proposed legislation was suggested by the Secretary of the Interior in a communication dated April 21, 1941, addressed to the Speaker of the House of Representatives. A bill (H. R. 4533) was introduced embodying the proposed legislation submitted by the Secretary of the Interior. The bill was referred to your committee for consideration.

The communication of the Secretary of the Interior, above referred to, follows:

THE SECRETARY OF THE INTERIOR,  
*Washington, April 21, 1941.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: There is submitted herewith a draft of proposed legislation to provide for the disposition of trust or restricted estates of Indians dying intestate without heirs.

Pursuant to the provisions of section 12 of the act of June 25, 1910 (36 Stat. 858), whenever it is determined that an Indian allottee has died without heirs, it is incumbent upon the Secretary of the Interior to report the facts to the Congress with a recommendation for cancelation of the trust or restricted fee patent issued in the name of the allottee. No provision is made, in the existing legislation, for disposition of the estate after cancelation of the patent. Moreover, under the present law, after recommendation by this Department, in the event of favorable action thereon, the Congress must either cancel the patent and provide for the disposition of the estate or authorize the Secretary of the Interior to do so.

The existing law cited above is both cumbersome and conducive to additional delay in cases which, by their very nature, already have consumed considerable time and effort on the part of this Department. Under the procedure followed by this department in seeking and determining heirs to Indian estates, an exhaustive investigation is conducted before the conclusion is reached that an Indian has died without heirs. In all such cases publicity is given the matter through the medium of local or State newspapers, and all persons who may be in a position to furnish any possible information of value are interviewed. There is no need for additional examination of the matter. To present the facts to the Congress for examination and action separately, in each case, as is now required, serves but to burden that body with an investigation and examination of details which can be, and are, handled with dispatch and safety by this Department, through skilled representatives charged with the probate of Indian estates.

Section 3 of the proposed legislation would repeal the proviso contained in section 12 of the act of June 25, 1910, supra, which requires that each individual case of this nature be presented to the Congress for examination.

Other matters also are covered by the proposed bill. Certain of the tribes which were in existence at the time allotments in severalty were made have been reorganized, or reconstituted by amalgamation with other tribes or groups or by subdivision within the tribe. This contingency is covered in the proposed legislation by providing for the escheat of the lands to the successor tribe or group, in the event of members dying without heirs.

For sundry reasons some of the Indian bands or groups which once had a recognized tribal status have ceased to exist as such. Notwithstanding the fact that the original tribe or a successor tribe may not exist, the lands are likely to be within an area of predominately Indian population inasmuch as they were

allotted out of an Indian reservation. For this reason, and in the interests of the Indian economy, the proposed legislation would authorize the Secretary of the Interior either to designate the Indian group for which the lands thereafter would be held in trust or to sell the lands and designate the Indian group for which the proceeds of sale would be held in trust. The Secretary's designation, in either case, would be confined to an Indian tribe, band or group within the State or States in which the land is situated.

Many Indians received allotments or homesteads on the public domain. In the case of an Indian dying intestate without heirs and leaving property of this class, if the lands are so located as to be adapted to Indian use, the Secretary would be authorized, where the value of the estate does not exceed \$2,000, to designate the tribe, band or group for which the lands thereafter would be held in trust. Should the estate exceed \$2,000 in value the lands adaptable to Indian use would be held in trust for such Indians as the Congress might designate. If it were determined that the lands could not be used advantageously by the Indians, they would be returned to the public domain automatically upon final determination that there had been a failure of heirs.

At the request of this Department, legislation similar to that herein proposed was introduced in the Seventy-sixth Congress, and designated H. R. 9887. Certain amendments suggested in House Report No. 2410, accompanying H. R. 9887, have been incorporated in the bill submitted herewith.

The Bureau of the Budget has advised me that there is no objection to the presentation of this proposed legislation to the Congress.

Very truly yours,

HAROLD L. ICKES,  
*Secretary of the Interior.*

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